

TOWN OF NEEDHAM

SEXUAL HARASSMENT POLICY #202

1. PURPOSE AND SCOPE

The purpose of this document is to outline the Town's policy on sexual harassment, and to ensure compliance with applicable federal laws, state statutes, and town by-laws.

2. APPLICABILITY

This policy applies to all employees of the Town of Needham excluding those employees under the supervision and control of the School Committee.

3. DEFINITIONS

Sexual Harassment --That conduct, including unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, which may constitute sexual harassment when:

- a. submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment;
- b. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- c. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Hostile Work Environment -- pervasive and sexually hostile working conditions which unreasonably interfere with an employee's ability to do his or her job.

Quid Pro Quo ("something for something") -- situation in which tangible job benefits are granted or withheld in exchange for sexual favors.

4. POLICY

The Town of Needham will not tolerate sexual harassment in the workplace. The duty to prevent such harassment arises from M.G.L. Chapter 151(B), and from Title VII of the U.S. Civil Rights Act of 1964 which includes sexual harassment as a form of unlawful discrimination. Retaliation against an employee who files a sexual harassment complaint, or who cooperates in an investigation of a sexual harassment complaint, is against the law and will not be tolerated by the Town of Needham.

5. PROCEDURES

A. Supervisor Responsibilities

Department managers and appointing authorities are responsible for the following:

1. disseminating this policy to employees under their supervision;
2. informing employees that sexual harassment is prohibited conduct which will not be tolerated or condoned, and that disciplinary action will be taken against any person who engages in sexual harassment;
3. advising employees of their right to complain to the Town's Affirmative Action Officer/Designee, the Massachusetts Commission Against Discrimination (MCAD), and/or the U.S. Equal Employment Opportunity Commission (EEOC) (See Attachment A);
4. informing employees that it is advisable to report conduct which the employee believes to be sexual harassment in a timely manner; and
5. assisting the employee in the complaint resolution process.

B. Employee Responsibilities

Each employee is personally responsible for:

1. ensuring that his/her conduct does not sexually harass any other employee, applicant for employment, or other individual in the workplace;
2. cooperating in any investigation of a report or complaint of alleged sexual harassment; and
3. cooperating with the Town's efforts to maintain a working environment free from such unlawful discrimination.

C. Sanctions

Any employee found to have engaged in sexual harassment in violation of this policy will be subject to disciplinary action up to and including termination from Town service.

6. COMPLAINT RESOLUTION PROCESS

- A. Any employee who believes that he/she has been discriminated against in violation of this policy should file a complaint to the Affirmative Action Officer/Designee.
- B. All such complaints shall be kept confidential. Documents pertaining to such complaint will not be included in the personnel file of the employee filing the complaint.
- C. If the Affirmative Action Officer/Designee is unable to resolve the situation to the employee's satisfaction, he/she will direct the employee to the MCAD or EEOC.
- D. An employee who is unwilling to make a complaint to the Town's Affirmative Action Officer/Designee may file a complaint directly with the MCAD or EEOC. These agencies may investigate the situation and may or may not issue a complaint.

7. CONSIDERATIONS

Sexual harassment is not, by definition, limited to prohibited conduct by a male employee toward a female employee, or by a supervisory employee to a subordinate employee. The Town's view of sexual harassment includes, but is not limited to, the following considerations:

- A. A man as well as a woman may be the victim of sexual harassment, and a woman may be the harasser.
- B. The harasser does not have to be the victim's supervisor. (S)he may be a supervisory employee who does not supervise the victim, a co-worker, or even a non-employee, such as a board member, member of the public, or a vendor to the Town.
- C. The victim does not have to be of the opposite sex from the harasser.
- D. The victim does not have to be the person at whom the unwelcome sexual conduct is directed. (S)he may also be someone who is affected by such conduct when it is directed toward another person. The sexual harassment of one employee may create an intimidating, hostile, or offensive working environment for another employee, or may unreasonably interfere with the co-worker's performance.
- E. Sexual harassment does not depend on the victim's having suffered a concrete economic injury as a result of the harasser's conduct. Improper sexual advances which do not result in the loss of a promotion by the victim, or the discharge of the victim, nonetheless constitute sexual harassment by unreasonably interfering with the victim's work or by creating a hostile or offensive work environment.

ATTACHMENT A

Affirmative Action Officer Designee

Kate Fitzpatrick
Assistant Town Administrator
Town Hall, 2nd Floor
455-7530

Massachusetts Commission Against Discrimination

(MCAD)
One Ashburton Place
Boston, MA 02108
617-727-3900

United States Equal Employment Opportunity Commission

(EEOC) Boston Office
One Congress Street 10th Floor
Boston, MA 02114
617-565-3200